

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2466**

1 On page 1 of the printed A-engrossed bill, line 3, delete “743.748,”.

2 Delete lines 9 through 28.

3 On page 2, delete lines 1 through 14 and insert:

4 **“SECTION 2. (1) As used in this section:**

5 **“(a) ‘Carrier’ has the meaning given that term in ORS 743.730.**

6 **“(b) ‘Grandfathered health plan’ has the meaning given that term**
7 **in ORS 743.730.**

8 **“(c) ‘Health benefit plan’ has the meaning given that term in ORS**
9 **743.730.**

10 **“(d) ‘Transitional grandfathered health benefit plan’ means a**
11 **grandfathered health plan that is issued or renewed by an employer**
12 **with 51 to 100 employees.**

13 **“(e) ‘Transitional health benefit plan’ means a health benefit plan,**
14 **other than a grandfathered health plan, that is:**

15 **“(A) Before January 1, 2016, issued to or renewed by an employer**
16 **with 51 to 100 employees on the date the plan is issued or renewed;**

17 **“(B) In effect on December 31, 2015; and**

18 **“(C) According to published federal guidance, not subject to**
19 **enforcement by the United States Department of Health and Human**
20 **Services, the United States Department of Labor or the United States**
21 **Department of the Treasury, for compliance with the requirements of:**

22 **“(i) 42 U.S.C. 300gg;**

- 1 “(ii) 42 U.S.C. 300gg-1;
2 “(iii) 42 U.S.C. 300gg-2;
3 “(iv) 42 U.S.C. 300gg-5;
4 “(v) 42 U.S.C. 300gg-6; and
5 “(vi) 42 U.S.C. 300gg-8.

6 “(2) A transitional health benefit plan and a transitional grandfa-
7 thered health benefit plan are not subject to the requirements:

8 “(a) In ORS 742.005 (6) unless otherwise required by rule by the
9 Department of Consumer and Business Services;

10 “(b) In ORS 743.736;

11 “(c) In ORS 743.737 (1)(a), (8), (10) and (11); and

12 “(d) Imposing limitations on participation and contribution rates
13 contained in ORS 743.737.

14 “(3) On and after January 1, 2016, each transitional health benefit
15 plan shall be renewable with respect to all eligible enrollees at the
16 option of the policyholder, employer or contract holder unless the
17 carrier discontinues both offering and renewing the health benefit plan
18 in this state or in a specified service area within this state, other than
19 a plan discontinued in a specified service area within this state:

20 “(a) Because of the inability to reach an agreement with the health
21 care providers or organization of health care providers to provide ser-
22 vices under the plan within the service area;

23 “(b) That gives notice of the decision to discontinue the plan to the
24 Department of Consumer and Business Services and to all
25 policyholders covered by the plan;

26 “(c) That does not cancel coverage under the plan for 90 days after
27 the date of the notice required under paragraph (b) of this subsection;
28 and

29 “(d) That offers in writing to each policyholder covered by the plan,
30 all other group health benefit plans that the carrier offers in the

1 **specified service area. The carrier shall offer the plans at least 90 days**
2 **prior to discontinuation.**

3 **“(4) ORS 743.752 (2) does not apply when a carrier discontinues a**
4 **group health benefit plan due to the change in the definition of ‘small**
5 **employer’ from an employer with a maximum of 50 employees to an**
6 **employer with a maximum of 100 employees.**

7 **“(5) The Department of Consumer and Business Services may**
8 **modify the requirements of this section or extend or delay the opera-**
9 **tive date of this section to the extent necessary to comply with pub-**
10 **lished federal guidance described in subsection (1)(e)(C) of this section.**

11 **“(6) No later than September 1, 2018, the department shall report**
12 **to the appropriate interim committees of the Legislative Assembly on**
13 **whether the repeal of this section by section 32 of this 2015 Act should**
14 **be extended to a later date.”.**

15 On page 7, line 19, after “(B)” insert “Subscriber contract of a”.

16 On page 9, line 16, after “18024” insert “unless otherwise prescribed by
17 the department by rule in accordance with guidance issued by the United
18 States Department of Health and Human Services, the United States De-
19 partment of Labor or the United States Department of the Treasury”.

20 On page 11, line 11, after “(B)” insert “Subscriber contract of a”.

21 On page 15, delete lines 44 and 45 and delete pages 16 through 19 and
22 insert:

23 **“SECTION 14. ORS 743.737 is amended to read:**

24 **“743.737. (1) A health benefit plan issued to a small employer:**

25 **“(a) **Other than a grandfathered health plan,** must cover essential**
26 **health benefits consistent with 42 U.S.C. 300gg-11.**

27 **“(b) May[:]**

28 **“[(A)] require an affiliation period that does not exceed two months for**
29 **an enrollee or 90 days for a late enrollee[;].**

30 **“[(B) *Impose an exclusion period for specified covered services, as estab-***

1 *lished under ORS 743.745, applicable to all individuals enrolling for the first*
2 *time in the small employer health benefit plan; or]*

3 “[*(C)*] **(c) May** not apply a preexisting condition exclusion to any
4 enrollee.

5 “(2) Late enrollees in a small employer health benefit plan may be sub-
6 jected to a group eligibility waiting period that does not exceed 90 days.

7 “(3) Each small employer health benefit plan shall be renewable with re-
8 spect to all eligible enrollees at the option of the policyholder, small em-
9 ployer or contract holder unless:

10 “(a) The policyholder, small employer or contract holder fails to pay the
11 required premiums.

12 “(b) The policyholder, small employer or contract holder or, with respect
13 to coverage of individual enrollees, an enrollee or a representative of an
14 enrollee engages in fraud or makes an intentional misrepresentation of a
15 material fact as prohibited by the terms of the plan.

16 “(c) The number of enrollees covered under the plan is less than the
17 number or percentage of enrollees required by participation requirements
18 under the plan.

19 “(d) The small employer fails to comply with the contribution require-
20 ments under the health benefit plan.

21 “(e) The carrier discontinues [*offering or renewing, or*] **both** offering and
22 renewing[,] all of its small employer health benefit plans in this state or in
23 a specified service area within this state. In order to discontinue plans under
24 this paragraph, the carrier:

25 “(A) Must give notice of the decision to the Department of Consumer and
26 Business Services and to all policyholders covered by the plans;

27 “(B) May not cancel coverage under the plans for 180 days after the date
28 of the notice required under subparagraph (A) of this paragraph if coverage
29 is discontinued in the entire state or, except as provided in subparagraph (C)
30 of this paragraph, in a specified service area; **and**

1 “(C) May not cancel coverage under the plans for 90 days after the date
2 of the notice required under subparagraph (A) of this paragraph if coverage
3 is discontinued in a specified service area because of an inability to reach
4 an agreement with the health care providers or organization of health care
5 providers to provide services under the plans within the service area[;
6 *and*].

7 “[*D*] *Must discontinue offering or renewing, or offering and renewing, all*
8 *health benefit plans issued by the carrier in the small employer market in this*
9 *state or in the specified service area.*]

10 “(f) The carrier discontinues **both** offering and renewing a small employer
11 health benefit plan in a specified service area within this state because of
12 an inability to reach an agreement with the health care providers or organ-
13 ization of health care providers to provide services under the plan within the
14 service area. In order to discontinue a plan under this paragraph, the carrier:

15 “(A) Must give notice to the department and to all policyholders covered
16 by the plan;

17 “(B) May not cancel coverage under the plan for 90 days after the date
18 of the notice required under subparagraph (A) of this paragraph; and

19 “(C) Must offer in writing to each small employer covered by the plan,
20 all other small employer health benefit plans that the carrier offers to small
21 employers in the specified service area. The carrier shall issue any such
22 plans pursuant to the provisions of ORS 743.733 to 743.737. The carrier shall
23 offer the plans at least 90 days prior to discontinuation.

24 “(g) The carrier discontinues [*offering or renewing, or*] **both** offering and
25 renewing[,] a health benefit plan, other than a grandfathered health plan, for
26 all small employers in this state or in a specified service area within this
27 state, other than a plan discontinued under paragraph (f) of this subsection.

28 “(h) The carrier discontinues [*renewing or*] **both** offering and renewing a
29 grandfathered health plan for all small employers in this state or in a spec-
30 ified service area within this state, other than a plan discontinued under

1 paragraph (f) of this subsection.

2 “(i) With respect to plans that are being discontinued under paragraph (g)
3 or (h) of this subsection, the carrier must:

4 “(A) Offer in writing to each small employer covered by the plan, all
5 other health benefit plans that the carrier offers to small employers in the
6 specified service area.

7 “(B) Issue any such plans pursuant to the provisions of ORS 743.733 to
8 743.737.

9 “(C) Offer the plans at least 90 days prior to discontinuation.

10 “(D) Act uniformly without regard to the claims experience of the affected
11 policyholders or the health status of any current or prospective enrollee.

12 “(j) The Director of the Department of Consumer and Business Services
13 orders the carrier to discontinue coverage in accordance with procedures
14 specified or approved by the director upon finding that the continuation of
15 the coverage would:

16 “(A) Not be in the best interests of the enrollees; or

17 “(B) Impair the carrier’s ability to meet contractual obligations.

18 “(k) In the case of a small employer health benefit plan that delivers
19 covered services through a specified network of health care providers, there
20 is no longer any enrollee who lives, resides or works in the service area of
21 the provider network.

22 “(L) In the case of a health benefit plan that is offered in the small em-
23 ployer market only to one or more bona fide associations, the membership
24 of an employer in the association ceases and the termination of coverage is
25 not related to the health status of any enrollee.

26 “(4) A carrier may modify a small employer health benefit plan at the
27 time of coverage renewal. The modification is not a discontinuation of the
28 plan under subsection (3)(e), (g) and (h) of this section.

29 “(5) Notwithstanding any provision of subsection (3) of this section to the
30 contrary, a carrier may not rescind the coverage of an enrollee in a small

1 employer health benefit plan unless:

2 “(a) The enrollee or a person seeking coverage on behalf of the enrollee:

3 “(A) Performs an act, practice or omission that constitutes fraud; or

4 “(B) Makes an intentional misrepresentation of a material fact as pro-
5 hibited by the terms of the plan;

6 “(b) The carrier provides at least 30 days’ advance written notice, in the
7 form and manner prescribed by the department, to the enrollee; and

8 “(c) The carrier provides notice of the rescission to the department in the
9 form, manner and time frame prescribed by the department by rule.

10 “(6) Notwithstanding any provision of subsection (3) of this section to the
11 contrary, a carrier may not rescind a small employer health benefit plan
12 unless:

13 “(a) The small employer or a representative of the small employer:

14 “(A) Performs an act, practice or omission that constitutes fraud; or

15 “(B) Makes an intentional misrepresentation of a material fact as pro-
16 hibited by the terms of the plan;

17 “(b) The carrier provides at least 30 days’ advance written notice, in the
18 form and manner prescribed by the department, to each plan enrollee who
19 would be affected by the rescission of coverage; and

20 “(c) The carrier provides notice of the rescission to the department in the
21 form, manner and time frame prescribed by the department by rule.

22 “(7)(a) A carrier may continue to enforce reasonable employer partic-
23 ipation and contribution requirements on small employers. However, partic-
24 ipation and contribution requirements shall be applied uniformly among all
25 small employer groups with the same number of eligible employees applying
26 for coverage or receiving coverage from the carrier. In determining minimum
27 participation requirements, a carrier shall count only those employees who
28 are not covered by an existing group health benefit plan, Medicaid, Medi-
29 care, TRICARE, Indian Health Service or a publicly sponsored or subsidized
30 health plan, including but not limited to the medical assistance program

1 under ORS chapter 414.

2 “(b) A carrier may not deny a small employer’s application for coverage
3 under a health benefit plan based on participation or contribution require-
4 ments but may require small employers that do not meet participation or
5 contribution requirements to enroll during the open enrollment period be-
6 ginning November 15 and ending December 15.

7 “(8) Premium rates for small employer health benefit plans, **except**
8 **grandfathered health plans**, shall be subject to the following provisions:

9 “(a) Each carrier must file with the department the initial geographic
10 average rate and any changes in the geographic average rate with respect
11 to each health benefit plan issued by the carrier to small employers.

12 “(b)(A) The variations in premium rates charged during a rating period
13 for health benefit plans issued to small employers shall be based solely on
14 the factors specified in subparagraph (B) of this paragraph. A carrier may
15 elect which of the factors specified in subparagraph (B) of this paragraph
16 apply to premium rates for health benefit plans for small employers. All
17 other factors must be applied in the same actuarially sound way to all small
18 employer health benefit plans.

19 “(B) The variations in premium rates described in subparagraph (A) of
20 this paragraph may be based only on one or more of the following factors
21 as prescribed by the department by rule:

22 “(i) The ages of enrolled employees and their dependents, except that the
23 rate for adults may not vary by more than three to one;

24 “(ii) The level at which enrolled employees and their dependents 18 years
25 of age and older engage in tobacco use, except that the rate may not vary
26 by more than 1.5 to one; and

27 “(iii) Adjustments to reflect differences in family composition.

28 “(C) A carrier shall apply the carrier’s schedule of premium rate vari-
29 ations as approved by the department and in accordance with this paragraph.
30 Except as otherwise provided in this section, the premium rate established

1 by a carrier for a small employer health benefit plan shall apply uniformly
2 to all employees of the small employer enrolled in that plan.

3 “(c) Except as provided in paragraph (b) of this subsection, the variation
4 in premium rates between different health benefit plans offered by a carrier
5 to small employers must be based solely on objective differences in plan de-
6 sign or coverage, age, tobacco use and family composition and must not in-
7 clude differences based on the risk characteristics of groups assumed to
8 select a particular health benefit plan.

9 “(d) A carrier may not increase the rates of a health benefit plan issued
10 to a small employer more than once in a 12-month period. Annual rate in-
11 creases shall be effective on the plan anniversary date of the health benefit
12 plan issued to a small employer. The percentage increase in the premium rate
13 charged to a small employer for a new rating period may not exceed the sum
14 of the following:

15 “(A) The percentage change in the geographic average rate measured from
16 the first day of the prior rating period to the first day of the new period; and

17 “(B) Any adjustment attributable to changes in age and differences in
18 family composition.

19 “[*e*] *Premium rates for small employer health benefit plans shall comply*
20 *with the requirements of this section.*]

21 “**(9) Premium rates for grandfathered health plans shall be subject**
22 **to requirements prescribed by the department by rule.**

23 “[~~9~~] **(10)** In connection with the offering for sale of any health benefit
24 plan to a small employer, each carrier shall make a reasonable disclosure
25 as part of its solicitation and sales materials of:

26 “(a) The full array of health benefit plans that are offered to small em-
27 ployers by the carrier;

28 “(b) The authority of the carrier to adjust rates and premiums, and the
29 extent to which the carrier [*will consider*] **considers** age, tobacco use, family
30 composition and geographic factors in establishing and adjusting rates and

1 premiums; and

2 “(c) The benefits and premiums for all health insurance coverage for
3 which the employer is qualified.

4 “[~~(10)(a)~~] **(11)(a)** Each carrier shall maintain at its principal place of
5 business a complete and detailed description of its rating practices and re-
6 newal underwriting practices relating to its small employer health benefit
7 plans, including information and documentation that demonstrate that its
8 rating methods and practices are based upon commonly accepted actuarial
9 practices and are in accordance with sound actuarial principles.

10 “(b) A carrier offering a small employer health benefit plan shall file with
11 the department at least once every 12 months an actuarial certification that
12 the carrier is in compliance with ORS 743.733 to 743.737 and that the rating
13 methods of the carrier are actuarially sound. Each certification shall be in
14 a uniform form and manner and shall contain such information as specified
15 by the department. A copy of each certification shall be retained by the
16 carrier at its principal place of business. A carrier is not required to file the
17 actuarial certification under this paragraph if the department has approved
18 the carrier’s rate filing within the preceding 12-month period.

19 “(c) A carrier shall make the information and documentation described
20 in paragraph (a) of this subsection available to the department upon request.
21 Except as provided in ORS 743.018 and except in cases of violations of ORS
22 743.733 to 743.737, the information shall be considered proprietary and trade
23 secret information and shall not be subject to disclosure to persons outside
24 the department except as agreed to by the carrier or as ordered by a court
25 of competent jurisdiction.

26 “[~~(11)~~] **(12)** A carrier shall not provide any financial or other incentive
27 to any insurance producer that would encourage the insurance producer to
28 [*market and*] sell health benefit plans of the carrier to small employer groups
29 based on a small employer group’s anticipated claims experience.

30 “[~~(12)~~] **(13)** For purposes of this section, the date a small employer health

1 benefit plan is continued shall be the anniversary date of the first issuance
2 of the health benefit plan.

3 “[~~(13)~~] (14) A carrier must include a provision that offers coverage to all
4 eligible employees of a small employer and to all dependents of the eligible
5 employees to the extent the employer chooses to offer coverage to depen-
6 dents.

7 “[~~(14)~~] (15) All small employer health benefit plans shall contain special
8 enrollment periods during which eligible employees and dependents may en-
9 roll for coverage, as provided by federal law and rules adopted by the de-
10 partment.

11 “[~~(15)~~] (16) A small employer health benefit plan may not impose annual
12 or lifetime limits on the dollar amount of essential health benefits.

13 “[~~(16)~~ *This section does not require a carrier to actively market, offer, issue*
14 *or accept applications for a grandfathered health plan or from a small em-*
15 *ployer not eligible for coverage under such a plan.]”.*

16 On page 20, delete lines 1 through 4.

17 In line 15, delete “marketed” and insert “sold”.

18 In line 18, delete “marketing” and insert “selling”.

19 Delete lines 26 through 45 and delete page 21.

20 On page 22, delete lines 1 through 11 and insert:

21 “**NOTE:** Sections 16 and 17 were deleted by amendment. Subsequent
22 sections were not renumbered.”.

23 Delete lines 38 through 45 and delete pages 23 through 29.

24 On page 30, delete lines 1 through 11 and insert:

25 “**SECTION 19.** ORS 743.754 is amended to read:

26 “743.754. The following requirements apply to all group health benefit
27 plans other than small employer health benefit plans covering two or more
28 certificate holders:

29 “(1) [*Except in the case of a late enrollee and except as otherwise provided*
30 *in this section,*] A carrier offering a group health benefit plan may not de-

1 cline to offer coverage to any eligible prospective enrollee and may not im-
2 pose different terms or conditions on the coverage, premiums or
3 contributions of any enrollee in the group that are based on the actual or
4 expected health status of the enrollee.

5 “(2) A group health benefit plan may not apply a preexisting condition
6 exclusion to any enrollee but may impose:

7 “(a) An affiliation period that does not exceed two months for an enrollee
8 or three months for a late enrollee; or

9 “[*(b) An exclusion period for specified covered services applicable to all*
10 *individuals enrolling for the first time in the plan.*]

11 “[*(3) Late enrollees may be subjected to*]

12 “(b) A group eligibility waiting period **for late enrollees** that does not
13 exceed 90 days.

14 “[*(4)*] **(3)** Each group health benefit plan shall contain a special enroll-
15 ment period during which eligible employees and dependents may enroll for
16 coverage, as provided by federal law and rules adopted by the Department
17 of Consumer and Business Services.

18 “**(4)(a) A carrier shall issue to a group any of the carrier’s group**
19 **health benefit plans offered by the carrier for which the group is eli-**
20 **gible, if the group applies for the plan, agrees to make the required**
21 **premium payments and agrees to satisfy the other requirements of the**
22 **plan.**

23 “**(b) The department may waive the requirements of this subsection**
24 **if the department finds that issuing a plan to a group or groups would**
25 **endanger the carrier’s ability to fulfill its contractual obligations or**
26 **result in financial impairment of the carrier.**

27 “(5) Each group health benefit plan shall be renewable with respect to
28 all eligible enrollees at the option of the policyholder unless:

29 “(a) The policyholder fails to pay the required premiums.

30 “(b) The policyholder or, with respect to coverage of individual enrollees,

1 an enrollee or a representative of an enrollee engages in fraud or makes an
2 intentional misrepresentation of a material fact as prohibited by the terms
3 of the plan.

4 “(c) The number of enrollees covered under the plan is less than the
5 number or percentage of enrollees required by participation requirements
6 under the plan.

7 “(d) The policyholder fails to comply with the contribution requirements
8 under the plan.

9 “(e) The carrier discontinues [*offering or renewing, or*] **both** offering and
10 renewing, all of its group health benefit plans in this state or in a specified
11 service area within this state. In order to discontinue plans under this par-
12 agraph, the carrier:

13 “(A) Must give notice of the decision to the department and to all
14 policyholders covered by the plans;

15 “(B) May not cancel coverage under the plans for 180 days after the date
16 of the notice required under subparagraph (A) of this paragraph if coverage
17 is discontinued in the entire state or, except as provided in subparagraph (C)
18 of this paragraph, in a specified service area; **and**

19 “(C) May not cancel coverage under the plans for 90 days after the date
20 of the notice required under subparagraph (A) of this paragraph if coverage
21 is discontinued in a specified service area because of an inability to reach
22 an agreement with the health care providers or organization of health care
23 providers to provide services under the plans within the service area[;
24 *and*].

25 “[*(D) Must discontinue offering or renewing, or offering and renewing, all*
26 *health benefit plans issued by the carrier in the group market in this state or*
27 *in the specified service area.*]

28 “(f) The carrier discontinues **both** offering and renewing a group health
29 benefit plan in a specified service area within this state because of an ina-
30 bility to reach an agreement with the health care providers or organization

1 of health care providers to provide services under the plan within the service
2 area. In order to discontinue a plan under this paragraph, the carrier:

3 “(A) Must give notice of the decision to the department and to all
4 policyholders covered by the plan;

5 “(B) May not cancel coverage under the plan for 90 days after the date
6 of the notice required under subparagraph (A) of this paragraph; and

7 “(C) Must offer in writing to each policyholder covered by the plan, all
8 other group health benefit plans that the carrier offers in the specified ser-
9 vice area. The carrier shall offer the plans at least 90 days prior to discon-
10 tinuation.

11 “(g) The carrier discontinues [*offering or renewing, or*] **both** offering and
12 renewing[,] a group health benefit plan, other than a grandfathered health
13 plan, for all groups in this state or in a specified service area within this
14 state, other than a plan discontinued under paragraph (f) of this subsection.

15 “(h) The carrier discontinues [*renewing or*] **both** offering and renewing a
16 grandfathered health plan for all groups in this state or in a specified service
17 area within this state, other than a plan discontinued under paragraph (f) of
18 this subsection.

19 “(i) With respect to plans that are being discontinued under paragraph (g)
20 or (h) of this subsection, the carrier must:

21 “(A) Offer in writing to each policyholder covered by the plan, one or
22 more health benefit plans that the carrier offers to groups in the specified
23 service area.

24 “(B) Offer the plans at least 90 days prior to discontinuation.

25 “(C) Act uniformly without regard to the claims experience of the affected
26 policyholders or the health status of any current or prospective enrollee.

27 “(j) The Director of the Department of Consumer and Business Services
28 orders the carrier to discontinue coverage in accordance with procedures
29 specified or approved by the director upon finding that the continuation of
30 the coverage would:

1 “(A) Not be in the best interests of the enrollees; or

2 “(B) Impair the carrier’s ability to meet contractual obligations.

3 “(k) In the case of a group health benefit plan that delivers covered ser-
4 vices through a specified network of health care providers, there is no longer
5 any enrollee who lives, resides or works in the service area of the provider
6 network.

7 “(L) In the case of a health benefit plan that is offered in the group
8 market only to one or more bona fide associations, the membership of an
9 employer in the association ceases and the termination of coverage is not
10 related to the health status of any enrollee.

11 “(6) A carrier may modify a group health benefit plan at the time of
12 coverage renewal. The modification is not a discontinuation of the plan un-
13 der subsection (5)(e), (g) and (h) of this section.

14 “(7) Notwithstanding any provision of subsection (5) of this section to the
15 contrary, a carrier may not rescind the coverage of an enrollee under a group
16 health benefit plan unless:

17 “(a) The enrollee:

18 “(A) Performs an act, practice or omission that constitutes fraud; or

19 “(B) Makes an intentional misrepresentation of a material fact as pro-
20 hibited by the terms of the plan;

21 “(b) The carrier provides at least 30 days’ advance written notice, in the
22 form and manner prescribed by the department, to the enrollee; and

23 “(c) The carrier provides notice of the rescission to the department in the
24 form, manner and time frame prescribed by the department by rule.

25 “(8) Notwithstanding any provision of subsection (5) of this section to the
26 contrary, a carrier may not rescind a group health benefit plan unless:

27 “(a) The plan sponsor or a representative of the plan sponsor:

28 “(A) Performs an act, practice or omission that constitutes fraud; or

29 “(B) Makes an intentional misrepresentation of a material fact as pro-
30 hibited by the terms of the plan;

1 “(b) The carrier provides at least 30 days’ advance written notice, in the
2 form and manner prescribed by the department, to each plan enrollee who
3 would be affected by the rescission of coverage; and

4 “(c) The carrier provides notice of the rescission to the department in the
5 form, manner and time frame prescribed by the department by rule.

6 “[9] *A carrier that continues to offer coverage in the group market in this*
7 *state is not required to offer coverage in all of the carrier’s group health ben-*
8 *efit plans. If a carrier, however, elects to continue a plan that is closed to new*
9 *policyholders instead of offering alternative coverage in its other group health*
10 *benefit plans, the coverage for all existing policyholders in the closed plan is*
11 *renewable in accordance with subsection (5) of this section.]*

12 “[10] (9) A group health benefit plan may not impose annual or lifetime
13 limits on the dollar amount of essential health benefits.

14 “[11] *This section does not require a carrier to actively market, offer, issue*
15 *or accept applications for a grandfathered health plan or from a group not*
16 *eligible for coverage under such a plan.]*

17 **“SECTION 20.** ORS 743.766 is amended to read:

18 “743.766. (1) With respect to coverage under an individual health benefit
19 plan, a carrier[:]

20 “[a] may not impose an individual coverage waiting period [*that exceeds*
21 *90 days*].

22 “[b] *May impose an exclusion period for specified covered services appli-*
23 *cable to all individuals enrolling for the first time in the individual health*
24 *benefit plan.]*

25 “[c] (2) With respect to individual coverage under a grandfathered
26 health plan, a carrier [*may*]:

27 **“(a) May impose an exclusion period for specified covered services**
28 **applicable to all individuals enrolling for the first time in the individ-**
29 **ual health benefit plan.**

30 **“(b) May not impose a preexisting condition exclusion unless the exclu-**

1 sion complies with the following requirements:

2 “(A) The exclusion applies only to a condition for which medical advice,
3 diagnosis, care or treatment was recommended or received during the six-
4 month period immediately preceding the individual’s effective date of cover-
5 age.

6 “(B) The exclusion expires no later than six months after the individual’s
7 effective date of coverage.

8 “[2)] (3) If the carrier elects to restrict coverage as described in sub-
9 section (1) **or** (2) of this section, the carrier shall reduce the duration of the
10 period during which the restriction is imposed by an amount equal to the
11 individual’s aggregate periods of creditable coverage if the most recent pe-
12 riod of creditable coverage is ongoing or ended within 63 days after the ef-
13 fective date of coverage in the new individual health benefit plan. The
14 crediting of prior coverage in accordance with this subsection shall be ap-
15 plied without regard to the specific benefits covered during the prior period.

16 “[3)] (4) An individual health benefit plan other than a grandfathered
17 health plan must cover, at a minimum, all essential health benefits.

18 “[4)] (5) A carrier shall renew an individual health benefit plan, includ-
19 ing a health benefit plan issued through a bona fide association, unless:

20 “(a) The policyholder fails to pay the required premiums.

21 “(b) The policyholder or a representative of the policyholder engages in
22 fraud or makes an intentional misrepresentation of a material fact as pro-
23 hibited by the terms of the policy.

24 “(c) The carrier discontinues [*offering or renewing, or*] **both** offering and
25 renewing[,] all of its individual health benefit plans in this state or in a
26 specified service area within this state. In order to discontinue the plans
27 under this paragraph, the carrier:

28 “(A) Must give notice of the decision to the Department of Consumer and
29 Business Services and to all policyholders covered by the plans;

30 “(B) May not cancel coverage under the plans for 180 days after the date

1 of the notice required under subparagraph (A) of this paragraph if coverage
2 is discontinued in the entire state or, except as provided in subparagraph (C)
3 of this paragraph, in a specified service area; **and**

4 “(C) May not cancel coverage under the plans for 90 days after the date
5 of the notice required under subparagraph (A) of this paragraph if coverage
6 is discontinued in a specified service area because of an inability to reach
7 an agreement with the health care providers or organization of health care
8 providers to provide services under the plans within the service area[;
9 *and*].

10 “[*D*] *Must discontinue offering or renewing, or offering and renewing, all*
11 *health benefit plans issued by the carrier in the individual market in this state*
12 *or in the specified service area.*]

13 “(d) The carrier discontinues **both** offering and renewing an individual
14 health benefit plan in a specified service area within this state because of
15 an inability to reach an agreement with the health care providers or organ-
16 ization of health care providers to provide services under the plan within the
17 service area. In order to discontinue a plan under this paragraph, the carrier:

18 “(A) Must give notice of the decision to the department and to all
19 policyholders covered by the plan;

20 “(B) May not cancel coverage under the plan for 90 days after the date
21 of the notice required under subparagraph (A) of this paragraph; and

22 “(C) Must offer in writing to each policyholder covered by the plan, all
23 other individual health benefit plans that the carrier offers in the specified
24 service area. The carrier shall offer the plans at least 90 days prior to dis-
25 continuation.

26 “(e) The carrier discontinues [*offering or renewing, or*] **both** offering and
27 renewing[,] an individual health benefit plan, other than a grandfathered
28 health plan, for all individuals in this state or in a specified service area
29 within this state, other than a plan discontinued under paragraph (d) of this
30 subsection.

1 “(f) The carrier discontinues [*renewing or*] **both** offering and renewing a
2 grandfathered health plan for all individuals in this state or in a specified
3 service area within this state, other than a plan discontinued under para-
4 graph (d) of this subsection.

5 “(g) With respect to plans that are being discontinued under paragraph
6 (e) or (f) of this subsection, the carrier must:

7 “(A) Offer in writing to each policyholder covered by the plan, all health
8 benefit plans that the carrier offers to individuals in the specified service
9 area.

10 “(B) Offer the plans at least 90 days prior to discontinuation.

11 “(C) Act uniformly without regard to the claims experience of the affected
12 policyholders or the health status of any current or prospective enrollee.

13 “(h) The Director of the Department of Consumer and Business Services
14 orders the carrier to discontinue coverage in accordance with procedures
15 specified or approved by the director upon finding that the continuation of
16 the coverage would:

17 “(A) Not be in the best interests of the enrollee; or

18 “(B) Impair the carrier’s ability to meet its contractual obligations.

19 “(i) In the case of an individual health benefit plan that delivers covered
20 services through a specified network of health care providers, the enrollee
21 no longer lives, resides or works in the service area of the provider network
22 and the termination of coverage is not related to the health status of any
23 enrollee.

24 “(j) In the case of a health benefit plan that is offered in the individual
25 market only through one or more bona fide associations, the membership of
26 an individual in the association ceases and the termination of coverage is
27 not related to the health status of any enrollee.

28 “[~~(5)~~] **(6)** A carrier may modify an individual health benefit plan at the
29 time of coverage renewal. The modification is not a discontinuation of the
30 plan under subsection [~~(4)(c)~~] **(5)(c)**, (e) and (f) of this section.

1 “[6] (7) Notwithstanding any other provision of this section, and subject
2 to the provisions of ORS 743.894 (2) and (4), a carrier may rescind an indi-
3 vidual health benefit plan if the policyholder or a representative of the
4 policyholder:

5 “(a) Performs an act, practice or omission that constitutes fraud; or

6 “(b) Makes an intentional misrepresentation of a material fact as pro-
7 hibited by the terms of the policy.

8 “[7] (8) A carrier that continues to offer coverage in the individual
9 market in this state is not required to offer coverage in all of the carrier’s
10 individual health benefit plans. However, if a carrier elects to continue a
11 plan that is closed to new individual policyholders instead of offering alter-
12 native coverage in its other individual health benefit plans, the coverage for
13 all existing policyholders in the closed plan is renewable in accordance with
14 subsection [(4)] (5) of this section.

15 “[8] (9) An individual health benefit plan may not impose annual or
16 lifetime limits on the dollar amount of essential health benefits.

17 **“(10) A grandfathered health plan may not impose lifetime limits
18 on the dollar amount of essential health benefits.**

19 “[9] (11) This section does not require a carrier to actively market, offer,
20 issue or accept applications for [*a grandfathered health plan or from an in-*
21 *dividual not eligible for coverage under such a plan*]:

22 **“(a) A bona fide association health benefit plan from individuals
23 who are not members of the bona fide association; or**

24 **“(b) A grandfathered health plan from individuals who are not eli-
25 gible for coverage under the plan.**

26 **“SECTION 21.** ORS 743.766, as amended by section 20 of this 2015 Act,
27 is amended to read:

28 “743.766. (1) With respect to coverage under an individual health benefit
29 plan, a carrier may not impose an individual coverage waiting period.

30 “(2) With respect to individual coverage under a grandfathered health

1 plan, a carrier:

2 “(a) May impose an exclusion period for specified covered services appli-
3 cable to all individuals enrolling for the first time in the individual health
4 benefit plan.

5 “(b) May not impose a preexisting condition exclusion unless the exclu-
6 sion complies with the following requirements:

7 “(A) The exclusion applies only to a condition for which medical advice,
8 diagnosis, care or treatment was recommended or received during the six-
9 month period immediately preceding the individual’s effective date of cover-
10 age.

11 “(B) The exclusion expires no later than six months after the individual’s
12 effective date of coverage.

13 “[*(3) If the carrier elects to restrict coverage as described in subsection (1)*
14 *or (2) of this section, the carrier shall reduce the duration of the period during*
15 *which the restriction is imposed by an amount equal to the individual’s ag-*
16 *gregate periods of creditable coverage if the most recent period of creditable*
17 *coverage is ongoing or ended within 63 days after the effective date of coverage*
18 *in the new individual health benefit plan. The crediting of prior coverage in*
19 *accordance with this subsection shall be applied without regard to the specific*
20 *benefits covered during the prior period.]*

21 “[*(4)*] **(3)** An individual health benefit plan other than a grandfathered
22 health plan must cover, at a minimum, all essential health benefits.

23 “[*(5)*] **(4)** A carrier shall renew an individual health benefit plan, includ-
24 ing a health benefit plan issued through a bona fide association, unless:

25 “(a) The policyholder fails to pay the required premiums.

26 “(b) The policyholder or a representative of the policyholder engages in
27 fraud or makes an intentional misrepresentation of a material fact as pro-
28 hibited by the terms of the policy.

29 “(c) The carrier discontinues both offering and renewing all of its indi-
30 vidual health benefit plans in this state or in a specified service area within

1 this state. In order to discontinue the plans under this paragraph, the car-
2 rier:

3 “(A) Must give notice of the decision to the Department of Consumer and
4 Business Services and to all policyholders covered by the plans;

5 “(B) May not cancel coverage under the plans for 180 days after the date
6 of the notice required under subparagraph (A) of this paragraph if coverage
7 is discontinued in the entire state or, except as provided in subparagraph (C)
8 of this paragraph, in a specified service area; and

9 “(C) May not cancel coverage under the plans for 90 days after the date
10 of the notice required under subparagraph (A) of this paragraph if coverage
11 is discontinued in a specified service area because of an inability to reach
12 an agreement with the health care providers or organization of health care
13 providers to provide services under the plans within the service area.

14 “(d) The carrier discontinues both offering and renewing an individual
15 health benefit plan in a specified service area within this state because of
16 an inability to reach an agreement with the health care providers or organ-
17 ization of health care providers to provide services under the plan within the
18 service area. In order to discontinue a plan under this paragraph, the carrier:

19 “(A) Must give notice of the decision to the department and to all
20 policyholders covered by the plan;

21 “(B) May not cancel coverage under the plan for 90 days after the date
22 of the notice required under subparagraph (A) of this paragraph; and

23 “(C) Must offer in writing to each policyholder covered by the plan, all
24 other individual health benefit plans that the carrier offers in the specified
25 service area. The carrier shall offer the plans at least 90 days prior to dis-
26 continuation.

27 “(e) The carrier discontinues both offering and renewing an individual
28 health benefit plan, other than a grandfathered health plan, for all individ-
29 uals in this state or in a specified service area within this state, other than
30 a plan discontinued under paragraph (d) of this subsection.

1 “(f) The carrier discontinues both offering and renewing a grandfathered
2 health plan for all individuals in this state or in a specified service area
3 within this state, other than a plan discontinued under paragraph (d) of this
4 subsection.

5 “(g) With respect to plans that are being discontinued under paragraph
6 (e) or (f) of this subsection, the carrier must:

7 “(A) Offer in writing to each policyholder covered by the plan, all health
8 benefit plans that the carrier offers to individuals in the specified service
9 area.

10 “(B) Offer the plans at least 90 days prior to discontinuation.

11 “(C) Act uniformly without regard to the claims experience of the affected
12 policyholders or the health status of any current or prospective enrollee.

13 “(h) The Director of the Department of Consumer and Business Services
14 orders the carrier to discontinue coverage in accordance with procedures
15 specified or approved by the director upon finding that the continuation of
16 the coverage would:

17 “(A) Not be in the best interests of the enrollee; or

18 “(B) Impair the carrier’s ability to meet its contractual obligations.

19 “(i) In the case of an individual health benefit plan that delivers covered
20 services through a specified network of health care providers, the enrollee
21 no longer lives, resides or works in the service area of the provider network
22 and the termination of coverage is not related to the health status of any
23 enrollee.

24 “(j) In the case of a health benefit plan that is offered in the individual
25 market only through one or more bona fide associations, the membership of
26 an individual in the association ceases and the termination of coverage is
27 not related to the health status of any enrollee.

28 “[6] (5) A carrier may modify an individual health benefit plan at the
29 time of coverage renewal. The modification is not a discontinuation of the
30 plan under subsection [(5)(c)] (4)(c), (e) and (f) of this section.

1 “[(7)] (6) Notwithstanding any other provision of this section, and subject
2 to the provisions of ORS 743.894 (2) and (4), a carrier may rescind an indi-
3 vidual health benefit plan if the policyholder or a representative of the
4 policyholder:

5 “(a) Performs an act, practice or omission that constitutes fraud; or

6 “(b) Makes an intentional misrepresentation of a material fact as pro-
7 hibited by the terms of the policy.

8 “[(8)] (7) A carrier that continues to offer coverage in the individual
9 market in this state is not required to offer coverage in all of the carrier’s
10 individual health benefit plans. However, if a carrier elects to continue a
11 plan that is closed to new individual policyholders instead of offering alter-
12 native coverage in its other individual health benefit plans, the coverage for
13 all existing policyholders in the closed plan is renewable in accordance with
14 subsection [(5)] (4) of this section.

15 “[(9)] (8) An individual health benefit plan may not impose annual or
16 lifetime limits on the dollar amount of essential health benefits.

17 “[(10)] (9) A grandfathered health plan may not impose lifetime limits on
18 the dollar amount of essential health benefits.

19 “[(11)] (10) This section does not require a carrier to actively market, of-
20 fer, issue or accept applications for:

21 “(a) A bona fide association health benefit plan from individuals who are
22 not members of the bona fide association; or

23 “(b) A grandfathered health plan from individuals who are not eligible for
24 coverage under the plan.

25 “**SECTION 22.** ORS 743.769 is amended to read:

26 “743.769. (1) Each carrier shall actively market all individual health ben-
27 efit plans sold by the carrier that are not grandfathered health plans.

28 “(2) Except as provided in subsection (3) of this section, no carrier or
29 insurance producer shall, directly or indirectly, discourage an individual
30 from filing an application for coverage because of the health status, claims

1 experience, occupation or geographic location of the individual.

2 “(3) Subsection (2) of this section does not apply with respect to infor-
3 mation provided by a carrier to an individual regarding the established ge-
4 ographic service area or a restricted network provision of a carrier.

5 “(4) Rejection by a carrier of an application for coverage shall be in
6 writing and shall state the reason or reasons for the rejection.

7 “(5) The Director of the Department of Consumer and Business Services
8 may establish by rule additional standards to provide for the fair marketing
9 and broad availability of individual health benefit plans.

10 “(6) A carrier that elects to discontinue offering all of its individual
11 health benefit plans under ORS 743.766 [~~(4)(c)~~] **(5)(c)** or to discontinue **both**
12 offering and renewing all such plans is prohibited from offering and renew-
13 ing health benefit plans in the individual market in this state for a period
14 of five years from the date of notice to the director pursuant to ORS 743.766
15 [~~(4)(c)~~] **(5)(c)** or, if such notice is not provided, from the date on which the
16 director provides notice to the carrier that the director has determined that
17 the carrier has effectively discontinued offering individual health benefit
18 plans in this state. This subsection does not apply with respect to a health
19 benefit plan discontinued in a specified service area by a carrier that covers
20 services provided only by a particular organization of health care providers
21 or only by health care providers who are under contract with the carrier.

22 “**SECTION 22a.** ORS 743.769, as amended by section 22 of this 2015 Act,
23 is amended to read:

24 “743.769. (1) Each carrier shall actively market all individual health ben-
25 efit plans sold by the carrier that are not grandfathered health plans.

26 “(2) Except as provided in subsection (3) of this section, no carrier or
27 insurance producer shall, directly or indirectly, discourage an individual
28 from filing an application for coverage because of the health status, claims
29 experience, occupation or geographic location of the individual.

30 “(3) Subsection (2) of this section does not apply with respect to infor-

1 mation provided by a carrier to an individual regarding the established ge-
2 ographic service area or a restricted network provision of a carrier.

3 “(4) Rejection by a carrier of an application for coverage shall be in
4 writing and shall state the reason or reasons for the rejection.

5 “(5) The Director of the Department of Consumer and Business Services
6 may establish by rule additional standards to provide for the fair marketing
7 and broad availability of individual health benefit plans.

8 “(6) A carrier that elects to discontinue offering all of its individual
9 health benefit plans under ORS 743.766 [(5)(c)] **(4)(c)** or to discontinue both
10 offering and renewing all such plans is prohibited from offering and renew-
11 ing health benefit plans in the individual market in this state for a period
12 of five years from the date of notice to the director pursuant to ORS 743.766
13 [(5)(c)] **(4)(c)** or, if such notice is not provided, from the date on which the
14 director provides notice to the carrier that the director has determined that
15 the carrier has effectively discontinued offering individual health benefit
16 plans in this state. This subsection does not apply with respect to a health
17 benefit plan discontinued in a specified service area by a carrier that covers
18 services provided only by a particular organization of health care providers
19 or only by health care providers who are under contract with the carrier.”.

20 On page 31, line 13, restore “an enrollee in the plan” and delete “a” and
21 insert a period.

22 Delete line 14.

23 On page 35, delete lines 19 through 33 and insert:

24 “(2) The amendments to ORS 743.106 by section 5 of this 2015 Act apply
25 to health benefit plans issued or renewed on or after January 1, 2017.

26 “(3) The amendments to ORS 743.602, 743.730, 743.766, 743.769, 743.818 and
27 743A.141 and section 66, chapter 681, Oregon Laws 2013, by sections 7 to 10,
28 21, 22a, 23 and 26 of this 2015 Act apply to:

29 “(a) A health benefit plan issued or renewed on or after January 1, 2016;
30 and

